

CONTINUING NATIONAL EMERGENCY—IRAN

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

INFORMATION ON THE LATEST DEVELOPMENTS CONCERNING
THE NATIONAL EMERGENCY WITH RESPECT TO IRAN THAT
WAS DECLARED IN EXECUTIVE ORDER NO. 12170 OF NOVEM-
BER 14, 1979, PURSUANT TO 50 U.S.C. 1703

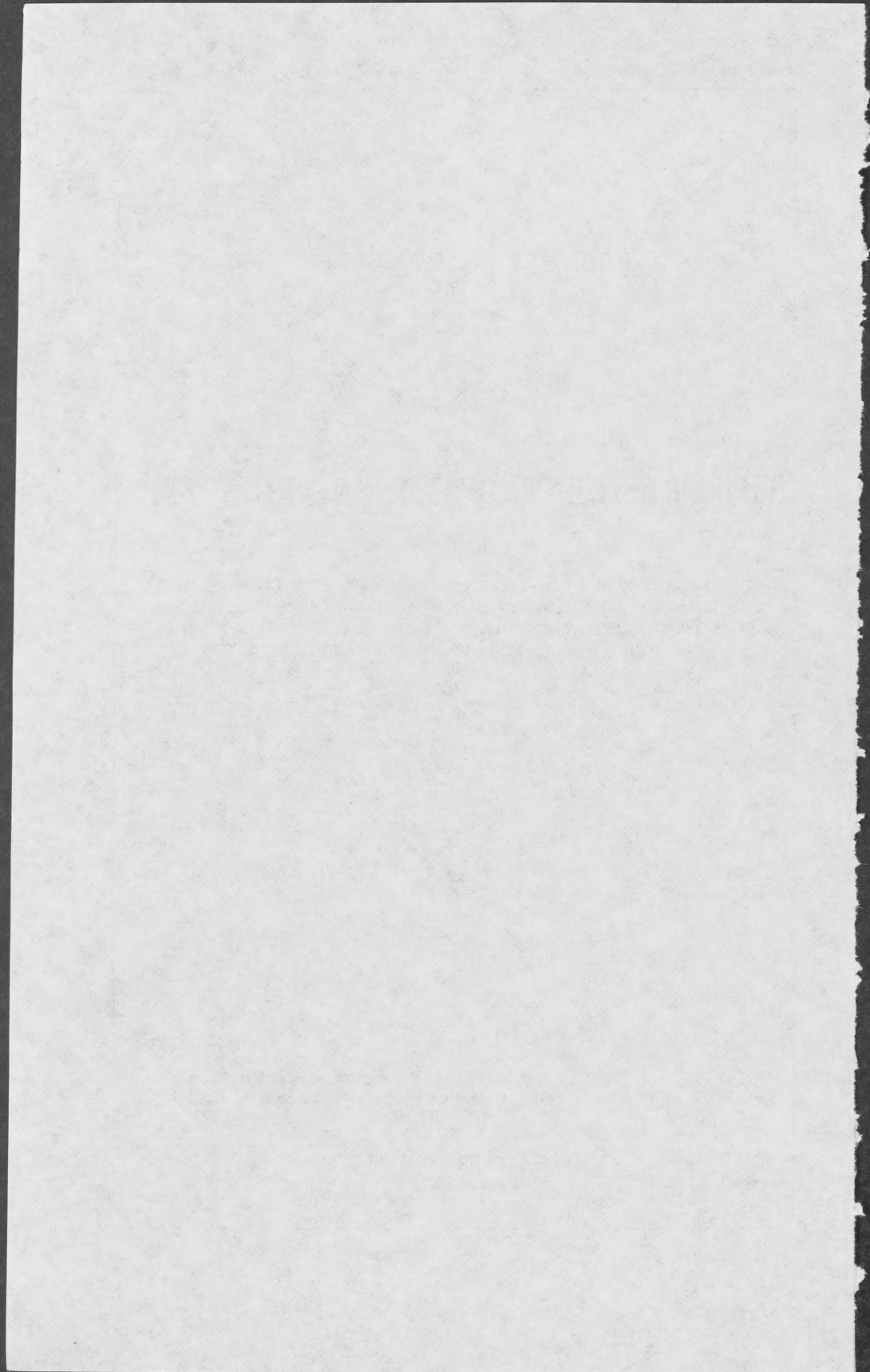


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To the Congress of the United States:

Pursuant to Section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. Section 1703(c), I hereby report to the Congress with respect to developments between my last report of November 4, 1983, and mid-April 1984, concerning the national emergency with respect to Iran that was declared in Executive Order No. 12170 of November 14, 1979.

1. The Iran-United States Claims Tribunal, established at The Hague pursuant to the Claims Settlement Agreement of January 19, 1981, continues to make progress in arbitrating the claims of U.S. nationals against Iran. Since my last report, the Tribunal has rendered 36 more decisions for a total of 118 final decisions. Eighty-five of these decisions have been awards in favor of American claimants. Sixty of these were awards on agreed terms, authorizing and approving payment of settlements negotiated by the parties and 25 were adjudicated. Total payments to successful American claimants from the Security Account stood at over \$193.1 million, as of March 31, 1984. Of the remaining 33 decisions, 16 dismissed claims for lack of jurisdiction, 3 partially dismissed claims for lack of jurisdiction, 11 dismissed claims on the merits, two approved withdrawal of a claim and one was an award in favor of the Government of Iran. As of March 31, the Tribunal had held 143 prehearing conferences and 88 hearings on the merits and had scheduled another 19 prehearings and 17 hearings through the end of September.

2. The Department of State continues to coordinate the efforts of the concerned government agencies in presenting U.S. claims against Iran as well as U.S. responses to claims brought by Iran. The Department continues to devote a great deal of time to responding to cases brought by Iran under Articles II(3) and VI(4) of the Claims Settlement Agreement, which establish Tribunal jurisdiction over questions of interpretation and implementation of the Algiers Accords. Since my last report, the Tribunal has issued an award in favor of the United States in one of these cases, holding that it had no jurisdiction over Iran's standby letter of credit claims except as counterclaims to claims brought on the underlying contract. The Full Tribunal has also determined that it does have jurisdiction over claims by individuals possessing both U.S. and Iranian nationality, as well as claims by non-profit organizations. In both instances, the Tribunal's decisions largely accorded with the position taken by the United States. Although the United States has filed replies in all of the interpretative cases, Iran has failed to do so and most of the hearings scheduled for the past six months have been cancelled.

3. Since my last report, a few government-to-government claims based on contracts for the provision of goods or services have been resolved. The United States withdrew three claims following the re-

ceipt of payment from Iran for each claim. In addition, the Tribunal dismissed on jurisdictional grounds one claim filed by Iran and one claim filed by the United States, stating that neither was based on contract. It also issued an award in favor of Iran in one claim arising from monies deposited by the Iranian Department of the Environment with the Environmental Protection Agency. In all three claims, the Tribunal based its decision solely on the pleadings. It will most likely continue this practice with most of the remaining official claims.

4. Over the last six months, the Tribunal has continued to make progress in arbitrating the claims of U.S. nationals for \$250,000 or more. More than 25 percent of these claims have been disposed of through adjudication, settlement, or voluntary withdrawal, leaving 381 claims on the docket. The Tribunal has rendered a number of significant decisions for American claimants. It has held that expropriation may be either *de facto* or *de jure* and that compensation for expropriated property must be prompt, adequate and effective. It has also decided that noncontractual Iranian counterclaims based on taxes allegedly owed by the U.S. claimant are outside its jurisdiction. As I reported in my last report, the Tribunal has requested Iran to stay court proceedings in Iran against at least eight U.S. nationals who have filed claims at the Tribunal on similar issues, but to date Iran has not complied with these requests.

5. In December 1983, the Tribunal adopted a test case approach for arbitrating claims for less than \$250,000 which, as a result of withdrawals, terminations, and settlements, now number 2,706. (The procedure to be used was described in my last report.) Two additional legal officers have joined the Tribunal's staff to work exclusively on these claims. The Tribunal has selected 18 test cases and has begun to set deadlines for Iran's Statements of Defense and, in some cases, has requested Supplemental Statements of Claim from the United States. In March 1984, the Tribunal selected an additional 50 claims at random for which the United States has been requested to file Supplemental Statements of Claim. The Department of State is accordingly in the process of preparing the factual and legal argumentation for all of these claims.

6. In the last six months, there have also been some changes in the composition of the Tribunal. Richard M. Mosk, one of the three U.S. arbitrators, resigned effective January 15, 1984, and Charles N. Brower has replaced him. Mr. Brower, who had previously been named a substitute arbitrator, is a well-known international lawyer who has served as a senior member of the Office of the Legal Adviser of the Department of State. Mr. Mosk is now acting as a substitute arbitrator. In addition, Carl F. Salans and William H. Levit, Jr. have been appointed substitute U.S. arbitrators. Mr. Salans, a member of the law firm of Salans Hertzfeld Heilbronn Beardsley & van Riel in Paris, France, has an extensive background in international adjudication, arbitration and negotiation. Mr. Levit, an experienced litigator, is a senior partner in the law firm of Godfrey & Kahn, Milwaukee, Wisconsin.

7. The January 19, 1981, agreements with Iran also provided for direct negotiations between U.S. banks and Bank Markazi Iran concerning the payment of nonsyndicated debt claims of U.S. banks

against Iran from the \$1.418 billion escrow account presently held by the Bank of England. Since my last report, only one additional settlement has been reached. The Bank of America received \$472 million in settlement of its claim, of which \$289.1 million was subsequently paid to Iran, primarily for interest on Iran's domestic deposits with the bank. Thus, as of March 31, 1984, there have been 25 bank settlements, totaling approximately \$1.4 billion. Iran has received \$616 million in settlement of its claims against the banks. About 24 bank claims remain outstanding.

8. On December 22, 1983, the Department of the Treasury amended Section 535.504 of the Iranian Assets Control Regulations to continue in effect indefinitely the prohibition of that section on any final judgment or order by a U.S. court disposing of any interest of Iran in any standby letter of credit, performance bond or similar obligation. The prohibition was promulgated to facilitate the ongoing implementation of the Algiers Accords and, especially, to allow the resolution before the Iran-United States Claims Tribunal of the many claims and issues pending before it involving letters of credit. The prohibition was extended indefinitely because it is not possible to predict how much time will be required in order to resolve these claims.

9. Although the Tribunal has made some progress over the past six months in arbitrating the claims before it, significant American interests remain unresolved. Iran has challenged the validity of four more of the Tribunal's awards in favor of U.S. claimants in the District Court of The Hague and has attempted to delay the arbitral process through repeated requests for extensions and failure to appear at Tribunal proceedings.

10. Financial and diplomatic aspects of the relationship with Iran continue to present an unusual challenge to the national security and foreign policy of the United States. I shall continue to exercise the powers at my disposal to deal with these problems and will continue to report periodically to the Congress on significant developments.

RONALD REAGAN.

THE WHITE HOUSE, *May 3, 1984.*



